UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CONSORZIO DEL PROSCIUTTO DI SAN DANIELE, Plaintiff,	)	C.A. No. 07-039ML
v.	)	
DANIELE, INC., Defendant.	)	

PLAINTIFF'S LOCAL RULE 56(a) STATEMENT OF FACTS IN DISPUTE FOR PURPOSES OF DEFENDANT'S SECOND MOTION FOR SUMMARY JUDGMENT

Pursuant to Local Rule 56(a), Plaintiff hereby submits its statement of those facts relied upon by Defendant in its second Motion for Summary Judgment that are either disputed or immaterial. These disputed facts are stated in separate numbered paragraphs that correspond to the extent possible with the numbering of the paragraphs in Defendant's statement of facts claimed not to be in issue.

3. Immaterial

4. Immaterial

5. Immaterial

6. Immaterial

7. Immaterial

8. Immaterial

9. Immaterial

10. Immaterial

11. Plaintiff disputes any implication that the settlement agreement of August 6, 2003 was not negotiated by responsible officials of both parties.

13. Plaintiff disputes any implication that the logo in Exhibit A to the settlement agreement was intended for any purpose other than that prescribed in paragraph 6 of the agreement.

15. Plaintiff disputes any implication that "Deli-Cut-O" is a valid mark. It has filed a petition to cancel the registration on the ground that the term is merely descriptive of the product.

16. Plaintiff disputes any implication that "Gran Premio" and "Riserva" are valid marks. It has filed notices of opposition to these applications on the ground that the terms are merely descriptive of the product.

17. Disputed. Defendant uses the alleged chess pieces and ribbon in various arrangements, sometimes separately. See Plaintiff's Memorandum in Support of Its Objection to Defendant's Second Motion for Summary Judgment, at 18-19.

19. Disputed. Defendant has given no evidence that its purpose and intent in using the logo was other than as an ornamental background for its name, rather than to indicate the source of the goods.

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Counsel for Plaintiff/Counterclaim Defendant

CERTIFICATION

I hereby certify that on May 12, 2008, a copy of the foregoing Plaintiff's Local Rule 56(a) Statement of Facts in Dispute for Purposes of Defendant's Second Motion for Summary Judgment was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system, or by e-mail or to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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